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AP

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/820,496	03/19/1997	WILLIAM GEORGE WILHELM		2970
4988	7590	10/06/2003	EXAMINER	
ALFRED M. WALKER 225 OLD COUNTRY ROAD MELVILLE, NY 11747-2712			RIOS CUEVAS, ROBERTO JOSE	
		ART UNIT		PAPER NUMBER
		2836		
DATE MAILED: 10/06/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	08/820,496	WILHELM, WILLIAM GEORGE
	Examiner Roberto J Rios	Art Unit 2836

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 21 June 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

4) Claim(s) 49-54, 56 and 116 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 49-54 and 56 is/are allowed.

6) Claim(s) 116 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____.
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not). Misnumbered claim 116 has been renumbered 117.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 117 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 117 recites the limitations "said primary sources", "said alternative primary source of DC" and "said power control means". There is insufficient antecedent basis for this limitation in the claim. In addition, there is uncertainty as to whether the AC power from the grid source is part of said primary sources and the electrical relationships between the power controller, said AC grid power, the primary source and said alternative primary source of DC. These limitations render the claimed unclear and indefinite to the extent that the Examiner cannot clearly and specifically determine the scope of the claim. Therefore, where there is a great deal of confusion and uncertainty as to the proper interpretation of the limitations of a claim, it would not be proper to reject such a claim on the basis of prior art, MPEP §2173.06. As stated in *In re Steele*, 305 F.2d 859, 134 USPQ 292 (CCPA 1962), a rejection under 35 U.S.C. 103 should not be based on considerable speculation about the meaning of terms employed in a claim or assumptions that must be made as to the scope of the claims. Thus, no prior art rejection for this claim will be provided at this time.

Allowable Subject Matter

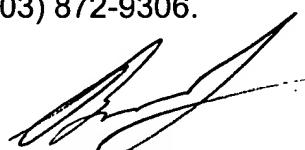
4. Claims 49-54 and 56 are allowed.
5. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record fails to teach or fairly suggest in light of applicant's claimed effective filling date a power sharing system in a DC load environment comprising a power controller for controlling in combination a shared DC power contribution of an alternative primary source of DC and controlling supply of a secondary source of DC to limit peak power supplied by a primary source of AC power in accordance with a pre-set threshold power value as in the claimed combination of elements recited in claim 49.

Response to Arguments

6. Applicant's arguments, see pages 7-10, filed 06/21/2003, with respect to claim 49 have been fully considered and are persuasive. The rejection of claims 49-54, and 56 has been withdrawn.

Communication with PTO

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roberto Rios whose telephone number is (703) 306-5518. In the event that Examiner Rios cannot be reached, his supervisor, Brian Sircus may be contacted at (703) 308-3119. The fax number for Before-Final communications and After-Final communications is (703) 872-9306.



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Patent Examiner